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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15 JOSHUA SIMON, DAVID BARBER, AND)
JOSUE BONILLA, individually and on behalf of)
16 all others similarly situated, DIANA BLOCK, an)
individual, and COMMUNITY RESOURCE)
17 INITIATIVE, an organization,)

18 Plaintiffs,)

19 v.)

20 CITY AND COUNTY OF SAN FRANCISCO,)
PAUL MIYAMOTO, IN HIS OFFICIAL)
21 CAPACITY AS SAN FRANCISCO SHERIFF,)

22 Defendants.)

CASE NO.: 4:22-cv-05541-JST

(San Francisco County Superior Court,
Case No.: CGC-22-601686)

**DECLARATION OF AVRAM D.
FREY IN SUPPORT OF MOTION
TO ADVANCE THE HEARING
DATE FOR PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Complaint Filed: September 8, 2022
Removal Filed: September 28, 2022

TRIAL DATE: None set

CLASS ACTION

DEMAND FOR JURY TRIAL

DECLARATION OF AVRAM D. FREY

I, AVRAM D. FREY, declare:

1. I am an attorney licensed to practice in the State of California and am employed as a Staff Attorney at the American Civil Liberties Union Foundation of Northern California. I have personal knowledge of the facts set forth in this Declaration and, if called upon, could testify to those facts.

2. Plaintiffs filed a Complaint in the present matter in the Superior Court for the County of San Francisco on September 8, 2022.

3. On September 14, 2022, Plaintiffs sought preliminary relief in the Superior Court. An order to show cause (OSC) hearing was calendared for September 29, 2022.

4. Defendants removed the matter to this Court on September 28, 2022.

5. On October 7, 2022, Plaintiffs filed a Notice of Motion and Motion for Preliminary Injunction, and supporting Memorandum of Law, in this Court. At that time, Plaintiffs selected the earliest available hearing date on the Court's online calendar, January 12, 2023.

6. Plaintiffs are hopeful that their Motion for Preliminary Injunction may be resolved sooner than the noticed hearing date of January 12, 2023 might permit. If the Court considers argument necessary to resolution of the issues presented, Plaintiffs respectfully request that the hearing date be moved up to the extent practicable given the Court's calendar and the time necessary for the parties to brief the issues.

7. Filed contemporaneously with Plaintiffs' Motion to Advance the Hearing Date is a Stipulation by which the parties have agreed to extended the briefing schedule on Plaintiffs' Motion for Preliminary Injunction by one week. Per the Stipulation, the last brief filed regarding that Motion will be due November 4, 2022. Plaintiffs accordingly seek a hearing date on their Motion for Preliminary injunction as soon after November 4 as is practicable for the Court.

8. Plaintiffs initially brought their request to advance the hearing date to the Court's Deputy, Ms. Lee, by email dated October 14, 2022. Counsel for Defendants were copied on this email. Plaintiffs brought this request to Ms. Lee in light of the Court's Standing Order for Civil Cases, which directs that "[s]cheduling questions may be addressed to Courtroom Deputy Mauriona Lee." However, Ms. Lee responded by email that any such request to the Court needed to be filed on the docket.

9. Plaintiffs have communicated about their intention to advance the hearing date on Plaintiffs' Motion for Preliminary Injunction. Prior to emailing Ms. Lee, counsel for Plaintiffs emailed with opposing counsel during the week of October 10, 2022. Counsel for Defendants indicated that they saw no need to intervene in the Court's scheduling.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of October 2022, at San Francisco, California.

/s/ Avram D. Frey

Avram D. Frey

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

I, Justina Sessions, am the ECF User whose identification and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that all signatories have concurred in this filing.

Dated: October 18, 2022

/s/ Justina Sessions
Justina Sessions